IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 32403 of 2007(G)

AGAINST THE ORDER IN IA 3010 2007 IN IP.14/1998 of ADDL.SUB COURT,KOLLAM
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PETITIONER:

MUHAMMAD NAVAS,AGED 40 YEARS
S/O. SHAHUL HAMEED, SHANUR BAHAVAN,
VADAKKEVILA VILLAGE, KOLLAM REPRESENTED BY
HIS POWER OF ATTORNEY HOLDER, SHAHUL HAMEED,
AGED 66 YEARS, S/O. ASSANARU KANNU,
SHANUR BHAVAN, VADAKKEVILA VILLAGE, KOLLAM.

BY ADV. SRI.DILEEP P.PILLAI
SRI.K.N.ABHILASH

RESPONDENTS:
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1. **O.SANTHAMMA, AGED 50 YEARS,**
W/O.RAVEENDRANATHAN, RESIDING AT MANGALASRIL HOUSE
PADAYANARKULANGARA NORTH, KARUNGAPPALLY.

2. **P.R.ANIL KUMAR, AGED 30 YEARS,**
S/O.RAVEENDRANATHAN, RESIDING AT MANGALASRIL HOUSE
PADAYANARKULANGARA NORTH, KARUNGAPPALLY.

3. **P.R.AJITH KUMAR, AGED 28 YEARS,**
S/O.RAVEENDRANATHAN, RESIDING AT MANGALASRIL HOUSE
PADAYANARKULANGARA NORTH, KARUNGAPPALLY.

4. **H.NAJUMUDEEN, AGED 42 YEARS**
S/O.KHALID KUNJU,PRIPIETOR OF A.I.MADINA JWELLERY
MAIN ROAD,KOLLAM, RESIDING AT NISHA NIVAS,
KAYYALAKKAL CHERRY, ERAVIPURAM P.O.

5. P.M.SAINUDEHEEN, AGED 45 YEARS,
S/O. HANEEFA RESIDING AT NITHIN,
VADAKKUMBHAGOM CHERRY,
KOLLAM.

6. ABDUL SALAM,S/O.KOCHUKUNHU
PALLISSERIKKAL MURIYIL
KODIYIL VEETTIL,SASTAMKOTTA VILLAGE, KOLLAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 32403 OF 2007

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Dated this the 1st day of November, 2007.

J U D G M E N T

This writ petition is filed to call for the records and quash Exts.P4 and P5 by a writ of certiorari. It is contended that by an order the Additional Subordinate Judge, Kollam has declared the first respondent therein namely Najumudeen as insolvent. The respondents in the insolvency petition are Najumudeen and Sainudheen. The writ petitioner is the purchaser of the property from one Abdul Salam. The first transaction was of the year 1988 and subsequent transferee are also there. The Insolvency Court found that the first transfer itself is not bonafide and after considering the matter elaborately with the junction of the seller and the first transferee, the Court adjudged the first respondent as insolvent. It is contended by the learned counsel for the writ petitioner that he is not a party to the insolvency proceedings and any order regarding this property without

his junction has to be set aside. Section 79 of the Insolvency Act clearly stipulates that a debtor, creditor or any other person aggrieved by an order of the insolvency Court is competent to file an appeal before the District Court and in case of an order from the District Court can prefer it before the High Court. So there is a statutory efficacious remedy available for the party. Instead of approaching the appropriate appellate forum, coming to the High Court in the form of writ petition under Article 227 cannot be entertained and therefore this writ petition is dismissed.

M.N. KRISHNAN, JUDGE.

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